

section, said first section of said side releasable buckle attached to said first strap, said second section of said side releasable buckle attached to said second strap, wherein prior to release of said ballast member said first section and said second section are connected to each other.

14. (Amended) A buoyancy compensator, comprising:
a body member; and
an active control releasable ballast system attached to said body member, said active control releasable ballast system including a side releasable buckle, excluding hook and loop fasteners, said side releasable buckle having a first section and a second section.

21. (Amended) A ballast assembly for use in a releasable ballast system of a dive equipment, the dive equipment having a body member, said ballast assembly comprising:
a ballast member; and
means for retaining the ballast member to the body member of the dive equipment prior to release, said means for retaining including at least one section of a side release buckle, wherein said side release buckle excludes hook and loop fasteners.

REMARKS

This Amendment is responsive to the Office Action dated July 15, 2002. In that Action, the Examiner rejected claims 1-21 under 35 U.S.C. §102(a) as being anticipated by the Halcyon publication dated 8/22/00 ("Halcyon publication"). Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Carmichael. Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Anderson. Claims 1-21 were

In re application of: Robert M. Carmichael
Serial No.: 09/730,116
Page 3

rejected under 35 U.S.C. §102(f). The Examiner has also required that the priority claim be withdrawn. Applicant respectfully traverses the Examiner's rejections and requirement to withdraw the priority claim and offers the foregoing amendments and following remarks in support thereof.

Claims 1, 14 and 21 have been amended. Claims 1-21 remain pending in the Application. No new matter has been inserted. Applicant respectfully requests reconsideration of the Examiner's rejections.

Claims 1-21 stand rejected under 35 U.S.C. §102(a) as being anticipated by the Halcyon publication. The Examiner indicated in the Office Action, that proof of the fact that the applicant was an owner of the Halcyon company on or before August 22, 2000 will overcome the Section 102(a) rejection. As such, Applicant is enclosing a Declaration of Robert Carmichael, the applicant for this application, attesting that on and before August 22, 2000, he was the President, CEO and sole owner of the Halcyon company. Accordingly, Applicant respectfully traverses the Examiner's rejection of claims 1-21 under 35 U.S.C. §102(a) as being anticipated by the Halcyon publication and also respectfully requests withdrawal of such rejection.

Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Carmichael. In view of the Examiner's broad interpretation of "side release buckle" or "side releasable buckle", Applicant has amended the claims to exclude "hook and loop fasteners". Carmichael uses a hook and loop fastening assembly. Accordingly, Applicant respectfully traverses the Examiner's rejection of claims 1-8 and 12-21 under 35 U.S.C. §102(b) as being anticipated by Carmichael and also respectfully requests withdrawal of such rejection.

In re application of: Robert M. Carmichael
Serial No.: 09/730,116
Page 4

Claims 1-8 and 12-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Anderson. Like Carmichael, Anderson relies on a hook and loop fastening system, which has been excluded by Applicant in the claims. Accordingly, Applicant respectfully traverses the Examiner's rejection of claims 1-8 and 12-21 under 35 U.S.C. §102(b) as being anticipated by Anderson and also respectfully requests withdrawal of such rejection.

Claims 1-21 were rejected under 35 U.S.C. §102(f). Applicant again respectfully submits that Applicant is the inventor of the claimed subject matter and that the priority claim to U.S. Application No. 09/628,836 ('836 Application) is proper. Applicant is concurrently filing a Petition to Commissioner to permit Applicant to claim priority to the '836 Application, based on the facts listed by Applicant in response to the first office action for this application. In view of the Petition, Applicant respectfully request that the Examiner hold this 102(f) rejection and the requirement to withdraw the priority claim in abeyance until Applicant has received a ruling on its Petition. Applicant also notes that all of the limitations in claims 1-21 are not present in the '836 Application. Accordingly, the Examiner's 102(f) rejection should not be made against of the claims in the instant application.

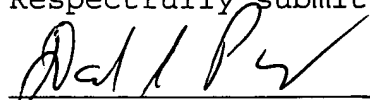
Applicant has completely responded to the Office Action dated July 15, 2002. Favorable action is respectfully requested.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current Amendment. The first page of the attached pages is captioned "Version with markings to show changes made".

In re application of: Robert M. Carmichael
Serial No.: 09/730,116
Page 5.

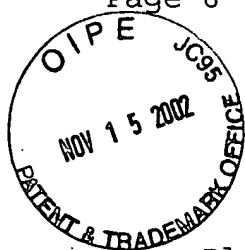
If there are any additional charges, including extension of
time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,



Daniel S. Polley, Reg. No. 34,902
Malin, Haley & DiMaggio, P.A.
1936 South Andrews Avenue
Fort Lauderdale, Florida 33316
(954) 763-3303

I:\9000\9297\AMEND\6817 (ACB-2ndAmd)



VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

Please amend the application as follows:

1. (Twice Amended) An active control releasable ballast system for dive equipment, comprising:

a ballast receiving pocket;

a ballast member stored within said receiving pocket prior to release of said ballast member;

a first strap attached at least proximate to said receiving pocket;

a second strap attached at least proximate to said receiving pocket, said second strap associated with said ballast member; and

a side releasable buckle, excluding hook and loop fasteners, said side releasable buckle having a first section and a second section, said first section of said side releasable buckle attached to said first strap, said second section of said side releasable buckle attached to said second strap, wherein prior to release of said ballast member said first section and said second section are connected to each other.

14. (Amended) A buoyancy compensator, comprising:

a body member; and

an active control releasable ballast system attached to said body member, said active control releasable ballast system including a side releasable buckle, excluding hook and loop fasteners, said side releasable buckle having a first section and a second section.

21. (Amended) A ballast assembly for use in a releasable ballast system of a dive equipment, the dive equipment having a body member, said ballast assembly comprising:

a ballast member; and

In re application of: Robert M. Carmichael
Serial No.: 09/730,116
Page 7

means for retaining the ballast member to the body member of the dive equipment prior to release, said means for retaining including at least one section of a side release buckle, wherein said side release buckle excludes hook and loop fasteners.